

Handwritten initials and a signature, possibly "Winebrake & Santillo".

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GWENDOLYN HALL, *on behalf of herself*  
*and others similarly situated,*  
Plaintiff,

v.

ACCOLADE, INC.,  
Defendant.

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: CIVIL ACTION  
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: NO. \_\_\_\_\_  
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: JURY TRIAL DEMANDED  
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**COMPLAINT - CLASS/COLLECTIVE ACTION**

Plaintiff Gwendolyn Hall (“Plaintiff”) brings this lawsuit against Defendant Accolade, Inc. (“Defendant”), asserting claims under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, et seq., and the Pennsylvania Minimum Wage Act (“PMWA”), 43 P.S. §§ 333.101, et seq. Plaintiff asserts her FLSA claim as a collective action under 29 U.S.C. § 216(b) and asserts her PMWA claim as a class action under Federal Rule of Civil Procedure 23.

**JURISDICTION AND VENUE**

1. Subject matter jurisdiction over the FLSA claim exists pursuant to 29 U.S.C. §

216(b) and 28 U.S.C. § 1331.

2. Subject matter jurisdiction over the PMWA claim exists pursuant 28 U.S.C. § 1367.

3. Venue in this Court is proper under 28 U.S.C. § 1391.

### **PARTIES**

4. Plaintiff resides in Norristown, Pennsylvania (Montgomery County).

5. Plaintiff is an employee covered by the FLSA and the PMWA.

6. Defendant is a corporation headquartered in Plymouth Meeting, Pennsylvania (Montgomery County).

7. Defendant is an employer covered by the FLSA because, *inter alia*, it employs individuals engaged in commerce or in the production of goods for commerce and/or handling, selling, or otherwise working on goods or materials that have been moved in or produced in commerce. Defendant also is an employer covered by the PMWA because it is a corporation and directly employed Plaintiff and others within Pennsylvania.

### **FACTS**

8. Defendant provides health insurance administration services to insurance companies and self-insured corporate clients.

9. Defendant employs hundreds of Health Assistants who either work from home or from Defendant's call centers in Pennsylvania, Arizona, and Washington. These Health Assistants generally handle customer service telephone calls from employees and other beneficiaries of the health insurance plans offered by Defendant's customers.

10. Plaintiff was employed by Defendant as a Health Assistant from April 2, 2012 through February 7, 2017.

11. Within the past three years, Plaintiff worked both from her home and from Defendant's Plymouth Meeting, PA call center.

12. Plaintiff and other Health Assistants often work over 40 hours per week.

13. Prior to November 28, 2016, Defendant maintained a company policy of not paying Health Assistants overtime premium compensation for hours worked over 40 per week. Defendant maintained this policy even though, during the pre-November 2016 time period, Health Assistants frequently worked over 40 hours per week. For example, Plaintiff estimates that, prior to November 28, 2016, she worked between 40 and 50 hours during a typical 5-day workweek.

14. On November 28, 2016, Defendant changed its company policy and started paying Health Assistants overtime premium compensation for hours worked over 40 per week. Unfortunately, under this new policy, Defendant fails to give Health Assistants payroll credit for all of their overtime work. For example, Health Assistants received five minutes credit each day to account for time required to log in to the systems, but the log in process took on average 5-15 minutes daily. This ongoing payroll practice results in Health Assistants receiving no compensation for some of their overtime work. For example, Plaintiff estimates that, during the week ending February 3, 2017, she worked approximately 44.25 hours. However, Defendant paid Plaintiff for only 43.72 hours.

15. In engaging in the conduct described above, Defendant acted willfully and with reckless disregard of clearly applicable FLSA provisions.

#### **COLLECTIVE AND CLASS ALLEGATIONS**

16. Plaintiff brings her FLSA claim pursuant to 29 U.S.C. § 216(b) on behalf of all individuals, who, during any time within the past three years, have been employed by Defendant

in the United States as Health Assistants.

17. Plaintiff's FLSA claim should proceed as a collective action because Plaintiff and other putative collective members, having worked pursuant to the common timekeeping and compensation policies described herein, are "similarly situated" as that term is defined in 29 U.S.C. § 216(b) and the associated decisional law.

18. Plaintiff brings her PMWA claim as a class action pursuant to Federal Rule of Civil Procedure 23 on behalf of all individuals, who, during any time within the past three years, have been employed by Defendant in Pennsylvania as Health Assistants.

19. Class action treatment of Plaintiff's PMWA claim is appropriate because, as alleged below, all of Federal Rule of Civil Procedure 23's class action requisites are satisfied.

20. The class, upon information and belief, includes hundreds of individuals, all of whom are readily ascertainable based on Defendant's payroll records and are so numerous that joinder of all class members is impracticable.

21. Plaintiff is a class member, her claims are typical of the claims of other class members, and she has no interests that are antagonistic to or in conflict with the interests of other class members.

22. Plaintiff and her lawyers will fairly and adequately represent the class members and their interests.

23. Questions of law and fact are common to all class members, because, *inter alia*, this action concerns Defendant's common timekeeping and compensation practices, as described herein. The legality of these policies will be determined through the application of common legal principles to common facts.

24. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3)

because common questions of law and fact predominate over questions affecting only individual class members and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation.

**COUNT I**  
**(Alleging Violations of the FLSA)**

25. All previous paragraphs are incorporated as though fully set forth herein.

26. The FLSA requires that employees receive overtime compensation calculated at 150% of their regular pay rate for hours worked over 40 per week.

27. Defendant violated the FLSA by failing to pay Plaintiff and other Health Assistants for (i) any of their overtime work prior to approximately November 28, 2016 and (ii) some (but not all) of their overtime work after approximately November 28, 2016.

28. In violating the FLSA, Defendant has acted willfully and with reckless disregard of clearly applicable FLSA provisions and, as such, has willfully violated the FLSA.

**COUNT II**  
**(Alleging Violations of the PMWA)**

29. All previous paragraphs are incorporated as though fully set forth herein.

30. The PMWA requires that employees receive overtime premium compensation calculated at 150% of their regular pay rate for all hours worked over 40 per week.

31. Defendant violated the PMWA by failing to pay Plaintiff and other Health Assistants for (i) any of their overtime work prior to approximately November 28, 2016 and (ii) some (but not all) of their overtime work after approximately November 28, 2016.

**JURY DEMAND**

Plaintiff demands a jury trial.

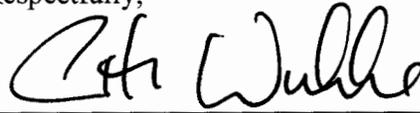
**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, on behalf of herself and other members of the class/collective, seeks the following relief:

- A. Orders permitting this action to proceed as a collective and class action;
- B. Unpaid wages (including overtime wages) and prejudgment interest;
- C. Liquidated damages;
- D. Litigation costs, expenses, and attorney's fees; and
- E. Such other and further relief as the Court deems just and proper.

Date: July 31, 2017

Respectfully,



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